

From: [ANDERSON Jim M](#)  
To: [Eric Blischke/R10/USEPA/US@EPA](#)  
Subject: RE: Portland Harbor ARARs  
Date: 06/08/2009 01:50 PM

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Eric,

I asked for some help with your questions from DEQ's Water Quality Standards Section. I embedded their responses to your questions in the body of your e-mail below. Their responses are in *red italicized* text.

Jim Anderson

Manager, DEQ Portland Harbor Section

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-----Original Message-----

From: Blischke.Eric@epamail.epa.gov  
[<mailto:Blischke.Eric@epamail.epa.gov>]  
Sent: Wednesday, June 03, 2009 4:36 AM  
To: ANDERSON Jim M  
Subject: Re: Portland Harbor ARARs

Jim, thanks for getting this to us. We are also in the process of looking at chemical specific ARARs. I have a couple quick questions regarding water quality standards.

Regarding the Table 33A values - you state that "For the purposes of state law, Table 20 are the applicable criteria, unless there is a corresponding criterion under Table 33A, in which case Table 33A is applicable." The introduction to Table 33A states: "Table 33A criteria

may be used in NPDES permits but not for the section 303(d) list of impaired waters." How does this match up with your determination that the corresponding criterion in Table 33A are chemical specific ARARs? *The EQC adopted revised standards by rule in 2004 to replace the Table 20 criteria. Because our permitting regulations require that the*

*permits meet requirements of the federal CWA and requirements of state law, we go ahead and apply the revised criteria to our NPDES permits as long as they are as stringent or more stringent than the currently effective CWA criteria. We may not apply criteria that are less stringent than the currently effective CWA criteria. What this means relative to our current standards tables is:*

1) *Table 20 are the currently effective CWA criteria (the most recent approved by EPA).*

2) *For NPDES purposes, Oregon applies the Table 33A criteria as a matter of State law. These criteria are the same as or more stringent than the Table 20 criteria.*

3) *DEQ may not apply the Table 33B criteria in any state or CWA program until they are approved by EPA, the rules note that they are not effective until they are approved by EPA, which is consistent with EPA regulations.*

*The upshot for permitting is, if there is a criterion in Table 33A that replaces or is in addition to the criterion on Table 20, it is used. Criteria on Table 20 that have not been replaced by a Table 33A criterion still apply.*

Also, you make no mention of Table 33B and 33C values. The introduction

to Table 33B states that these criteria may not be used until EPA

approves them Table 33C are promulgated as guidance values. What is

the state's position on these? *Table 33C are pollutants for which EPA did not develop recommended regulatory (304a) criteria, but provided guidance values instead. Therefore, States are not required to adopt criteria for these pollutants either. My understanding is that one of the primary reasons they are not recommended criteria is a lack of adequate data. To my knowledge & at this time, DEQ has not developed policies/guidance about how we may or may not use the Table 33C values.*

If you cannot answer these questions right off the bat, we may have to schedule a time to discuss more formally.

Thanks, Eric

"ANDERSON Jim  
M"

<ANDERSON.Jim@de  
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To

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Subject

Portland Harbor

ARARs

Eric, Chip, Kristine, & Lori,

In EPA's 4/10/09 letter to me, you requested DEQ identify potential ARARs & TBCs for the Portland Harbor project. Attached to this e-mail are the state ARARs & TBCs we identified. There are 3 other requirements that could be possible ARARs or TBCs that are not included

in the attached spreadsheet that we are further considering. Those 3 additional requirements are: 1) Oregon State Harbor Line Statute (ORS 778.085), 2) City of Portland Greenway Code (PCC 33.440); & 3) City of Portland Flood Hazard Area (PCC 24.50). As soon as we finish considering these 3 requirements, I'll revise the attached spreadsheet &

send it to you.

<<ARARs 5\_09.docx>>

Jim Anderson.

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